

# CITY COUNCIL AGENDA

**APRIL 17, 2007**

## SYNOPSIS

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
VACANT  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED, MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DAVID D CORTESE, VICE MAYOR  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/clerk/agenda.asp>. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:31 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Cortese. (Excused)**  
  
1:31 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**  
  
7:00 p.m. - General Plan Hearings, Council Chambers, City Hall  
Public Hearings, Council Chambers, City Hall  
**Absent Council Members: Campos. (Excused)**
- **Invocation (District 4)**  
Pat de Guzman, Northside Community Center, honored two World War II Veterans in memory of “Bataan Day”.
- **Pledge of Allegiance**  
Mayor Reed and the 2nd grade Class from Sherman Oaks Elementary, led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved, with Items 2.1 and 3.1 deferred to 4/24/07, 9.1 deferred to 5/1/07 and Item 1.4 was heard in the evening.  
  
Mayor Reed led a moment of silence for the thirty three victims of the April 16, 2007 shooting massacre at Virginia Tech University.
- **Closed Session Report**  
**No Report.**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the Sunshine Reform Taskforce Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)  
**Mayor Reed and City Manager Les White recognized and commended the Sunshine Reform Taskforce Team for their excellent dedication and important contributions to the City of San José.**
- 1.2 Presentation of a commendation and donation to "Fit for Learning", a beneficiary of the Webcor San José King-of-the-Mountain-Ride. (Liccardo/Economic Development)L  
**Mayor Reed, Council Member Liccardo and Director of Economic Development Paul Krutko recognized and commended "Fit for Learning", a beneficiary of the Webcor San José King-of-the-Mountain-Ride. Carl Guardino accepted a check on behalf of "Fit for Learning".**
- 1.3 Presentation of a commendation to Charles W. Davidson for his exemplary philanthropic leadership and outstanding commitment to the City of San José. (Nguyen/Pyle)  
**Mayor Reed and Council Members Nguyen and Pyle recognized and commended Mr. Charles W. Davidson for his outstanding philanthropic leadership and commitment to the City of San José.**
- 1.4 Presentation of a commendation to Dr. Nguyen Xuan Vinh for his services to the astronautics profession and his distinguished accomplishments in the field of space flight mechanics, both as a researcher and educator. (Nguyen)  
**Heard in the evening.**  
**Mayor Reed and Council Member Nguyen recognized and commended Dr. Nguyen Xuan Vinh for his services to the astronautics profession and his distinguished accomplishments in the field of space flight mechanics, both as a researcher and educator.**
- 1.5 Presentation of a commendation to Barry Del Buono and EHC Lifebuilders for their ongoing efforts to protect human rights and their long-term contributions toward building a better community for all of our residents now and in the future. (Nguyen/Liccardo/ Human Rights Commission)  
**Dropped, per Administration.**
- 1.6 Presentation of a commendation recognizing ABL Properties for exemplary service and support to residents affected by the Branham House Apartments fire that occurred on March 8, 2007. (Housing)  
(Deferred from 4/3/07 – Item 1.3)  
**Mayor Reed and Director of Housing Leslye Krutko recognized and commended ABL Properties for their outstanding service to the residents affected by the Branham House Apartment fire.**

## 1. CEREMONIAL ITEMS

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- 1.7 Presentation of a commendation to Ray Furuta, member of the San José Youth Symphony from District 5. (Campos/Chirco/Pyle)  
(Deferred from 4/3/07 – Item 1.4)  
**Heard in the evening.**  
**Mayor Reed and Council Members Chirco and Pyle recognized and commended Ray Furuta, a member of the San José Youth Symphony from District 5. Council Member Campos was not present.**
- 1.8 Presentation of a proclamation declaring the month of May as "Le Hoi Phat Dan Truyen Thong Dan Gian" which is the traditional Buddhist celebration of Buddha's Birthday.  
(Cortese)  
(Rules Committee referral 4/11/07)  
**Heard in the evening.**  
**Mayor Reed and Vice Mayor Cortese recognized the month of May as "Le Hoi Phat Dan Truyen Thong Dan Gian" in the City of San José.**

## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes:

- (a) Current Minutes
  - (b) Past Minutes
    - (1) Regular minutes of October 3, 2006
    - (2) Special Council minutes of October 10, 2006
    - (3) Regular minutes of October 17, 2006
    - (4) Regular minutes of October 24, 2006
    - (5) Regular minutes of October 31, 2006
- (Deferred from 4/3/07 – Item 2.1)

**Deferred to 4/24/07, per City Clerk, under Orders of the Day.**

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28007 – Amending Chapter 9.10 of Title 9 of the San José Municipal Code by amending Sections 9.10.1030, 9.10.1100, 9.10.2430, and 9.10.2440 to revise the provisions relating to contaminated recyclables carts, multi-family container set-outs, and the Construction and Demolition Debris Deposit Program.

**Ordinance No. 28007 adopted.**

## **2. CONSENT CALENDAR**

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### **2.2 Final adoption of ordinances (Cont'd.)**

- (b) ORD. NO. 28010 – Rezoning certain real property situated at the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue to R-1-8 Single Family Zoning District. C06-114

**Ordinance No. 28010 adopted.**

- (c) ORD. NO. 28011 – Rezoning certain real property situated in the LI Light Industrial Zoning District to A(PD) Planned Development Zoning District. PDC06-040

**Ordinance No. 28011 adopted.**

### **2.3 Approval to amend the administrative and contract authority granted to the Director of Aviation.**

**Recommendation:** Approval of Ordinances:

- (a) Amending Chapter 9.44 of Title 9 of the San José Municipal Code to authorize the Director of Aviation to designate smoking and non-smoking areas at all outdoor areas at the Norman Y. Mineta San José International Airport.

**Ordinance No. 28016 passed for publication.**

- (b) Amending Chapter 25.08 of Title 25 of the San José Municipal Code to increase the authority of the Director of Aviation to execute leases, licenses, exclusive use permits and other commercial activity agreements with terms in excess of 3 years and a total value of up to \$250,000.

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-046. (Airport)

**Ordinance No. 28017 passed for publication.**

### **2.4 Approval of an amendment to the agreement for legal services in connection with labor relations and negotiations.**

**Recommendation:** Adoption of a resolution authorizing the City Attorney to negotiate and execute a third amendment to the agreement with Renne Sloan Holtzman & Sakai LLP for legal services in connection with labor relations and negotiations, modifying the scope of services, increasing compensation by \$300,000, for a total amount not to exceed \$725,000, and extending the term through June 30, 2009. (City Attorney)

**Resolution No. 73727 adopted.**

### **2.5 Request for an excused absence for Vice Mayor Cortese.**

**Recommendation:** Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Transportation & Economic Committee of April 2, 2007 due to Authorized City Business: Internal District 8 Meeting. (Cortese)

**Approved.**

## **2. CONSENT CALENDAR**

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### **2.6 Approval to amend an agreement for Airport Custodial Services.**

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the agreement between the City of San José and Acme Building Maintenance for Custodial Service at the Norman Y. Mineta San José International Airport by correcting the insurance requirement for janitorial services and adding services resulting in an increase in compensation by \$180,000 from \$216,000 to a not-to-exceed amount of \$396,000 for the first year of the Agreement. CEQA: Not a Project. (Finance)

**Deferred to 4/24/07, per Administration.**

### **2.7 Approval to summarily vacate a portion of the Storm Drainage Easement on Fleming Avenue.**

**Recommendation:** Adoption of a resolution summarily vacating a portion of the Storm Drainage Easement lying within Lands of Braddock & Logan at 143 Fleming Avenue. Council District 5. (Public Works)

**Resolution No. 73728 adopted.**

### **2.8 Approval to purchase an Integrated Cashiering System.**

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with The Active Network Inc. in an amount not to exceed \$253,398 for the purchase and installation of an Integrated Cashiering System, including software, hardware, professional services, five years of maintenance and support, shipping, and applicable sales taxes.
- (b) Execute change orders not to exceed a 15% contingency amount of \$38,010 to cover unanticipated changes or requirements related to the design, implementation, maintenance and support of the system over a five-year period.

CEQA: Not a Project. (Finance)

(Deferred from 4/10/07 – Item 2.11)

**Deferred to 4/24/07, per Administration.**

### **2.9 Approval of appointment to the Work2Future Board.**

**Recommendation:** Approval of the appointment of Lloyd L. Tran to the work2future Board (formerly Silicon Valley Workforce Investment Network Board). (Mayor)  
(Rules Committee referral 4/11/07)

**Approved.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.1 Report of the Rules and Open Government Committee – March 28, 2007**

**Mayor Reed, Chair**

- (a) City Council
  - (1) Review New Add Items to April 3, 2007 Agenda
  - (2) Review April 10, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Acceptance of the March 2007 State Legislative Bill Matrix.  
(Manager's Office)  
(Continued from 3/21/07)
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
  - (1) Reed Reforms
    - (a) Acceptance of staff's proposed presentation on ethics to the Council in response to Reed Reform #26. (City Manager/City Attorney)
  - (2) Sunshine Reform Task Force
    - (a) Update on current proposals and outstanding issues for Phase 1 recommendations including requirements for: (1) Public meetings, (2) Closed session, (3) Public information. (Sunshine Reform Task Force)
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

**Deferred to 4/24/07, per City Clerk, under Orders of the Day.**

#### **3.2 Report of the Public Safety, Finance and Strategic Support Committee**

**Council Member Nguyen, Chair**

**No Report.**



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Approval of fiscal actions to recognize the repayment of the American GI Forum Loan.

**Recommendation:** Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:

- (a) Increase the estimate for Earned Revenue by \$2,358,510 to recognize the loan repayment from the American GI Forum.
- (b) Decrease Ending Fund Balance by \$218,721.
- (c) Establish a transfer to the San José Redevelopment Agency in the amount of \$2,474,645.
- (d) Establish a transfer to the General Fund in the amount of \$102,586.

CEQA: Not a Project. (City Manager's Office)

**Ordinance No. 28018 adopted.**

**Resolution No. 73729 adopted.**

**Staff directed to place the funds into the Contingency Reserve to be used towards assisting the Mexican Heritage Corporation.**

#### 3.4 Approval of fiscal actions for the Mexican Heritage Corporation.

**Recommendation:**

- (a) Approval of the Fourth Amendment to the Operation and Maintenance Agreement between the City and Mexican Heritage Corporation to provide one time additional funding in an amount not to exceed \$175,000 for the operation and maintenance of the Mexican Heritage Plaza through June 30, 2007.

**Approved.**

- (b) Adoption of the following appropriation ordinance amendments in the General Fund:

- (1) Establish a City-Wide appropriation to the City Manager's Office for Mexican Heritage Corporation in the amount of \$175,000;
- (2) Reduce the General Fund Contingency Reserve by \$175,000.

(Public Works/City Manager's Office)

**Ordinance No. 28019 adopted, as amended:**

- (1) **Staff to return with criteria recommended by the Arts Commission Program Committee for the Arts Stabilization Fund.**
- (2) **The City Manager's Staff to return with recommendations and suggestions on how to deal with other nonprofit groups and how they qualify for funding, if not considered a loan.**
- (3) **Mexican Heritage Corporation to bring forward a plan to Council by the end of June regarding the recruitment and selection of a Development Director.**
- (4) **Staff to return with recommendations to implement future online disclosures for nonprofits.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Report of the Rules and Open Government Committee – March 21, 2007

**Mayor Reed, Chair**

- (a) City Council
  - (1) Review New Add Items to March 27, 2007 Agenda  
**The Committee approved the March 27, 2007 City Council Agenda.**
  - (2) Review April 3, 2007 Draft Agenda  
**The Committee approved the April 3, 2007 Draft City Council Agenda with four additions.**
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Acceptance of the March 2007 State Legislative Bill Matrix.
  - (2) Federal
    - (a) National League of Cities Congressional Conference Summary Report (verbal).  
**The Committee accepted the reports.**
- (d) Meeting Schedules
  - (1) Setting Hearing for spring 2007 for General Plan Amendments and Initiating the Reestablishment of a fall Annual Review of the General Plan.  
(Deferred from 3/14/07)  
**The Committee accepted the recommendation.**
  - (2) Request to set study session for the Evergreen\*East Hills Vision Strategy for Monday, April 30, 2007, 1-4 p.m.  
**The Committee accepted the recommendation.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointments to Boards, Commissions and Committees
  - (1) Appointment to the Airport Noise Advisory Committee.  
**The Committee approved the appointment of Mr. Joe Kornder.**
  - (2) Council Committee Appointments.  
**The Committee accepted the recommendation and forwarded the appointments to the City Council on March 27, 2007.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Request to Add to City Auditor's 2006-07 Work Plan: Review Fee Payments by City's Franchised Haulers.  
**The Committee approved the request.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.5 Report of the Rules and Open Government Committee – March 21, 2007 (Cont'd.)**

**Mayor Reed, Chair**

(h) Review of Council Committee Agendas

**There were none.**

(i) Open Government Initiatives

**There were none.**

(j) Open Forum

**None were presented.**

(k) Adjournment

(Deferred from 4/10/07 – Item 3.2)

**The meeting was adjourned at 2:40 p.m.**

**The Rules and Open Government Committee Report and the Actions of March 21, 2007, were accepted.**

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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#### **4.1 Report of the Community & Economic Development Committee**

**Council Member Pyle, Chair**

**No Report.**

### **5. NEIGHBORHOOD SERVICES**

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#### **5.1 Report of the Neighborhood Services and Education Committee**

**Council Member Chirco, Chair**

**No Report.**

#### **5.2 Approval to amend the Strong Neighborhood Initiative Winchester Neighborhood Improvement Plan.**

**Recommendation:** Approval of the Strong Neighborhoods Initiative Winchester Neighborhood Improvement Plan Amendment as the renewed City/community vision for the future of the Winchester Area. CEQA: Resolution No. 71045. (Planning, Building and Code Enforcement.)

**Renumbered to 9.1.**

**See Item 9.1 for Council Action.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report of the Transportation and Environment Committee – April 2, 2007 Council Member Williams, Chair**

- (a) Review of Urban Environmental Accords Strategic Plan and Progress Towards Goals Attainment.  
(Deferred from 3/5/07)  
**The Committee accepted the report.**
- (b) Las Plumas Household Hazardous Waste Facility Site Plan Development.  
**The Committee accepted the report.**
- (c) Update on the Transportation Infrastructure Maintenance Needs Master Plan.  
**The Committee accepted the report.**
- (d) Report on Progress of Project Delivery with PG&E on Undergrounding Utility Program.  
**The Committee accepted the report.**
- (e) City Hall and Other Facilities Maintenance Issues.  
**The Committee accepted the report.**
- (f) Update on Americans With Disabilities Act Compliance Review.  
**Dropped per Administration.**
- (g) Stormwater Program Status Report and Discuss Needs for Storm Water Collection System/Reserve and Potential Fee Adjustments.  
**The Committee accepted the report, with Staff directed to proceed with the detailed assessment of activities, programs and funding needs associated with the Stormwater Program priorities and develop a scope of work and funding resources needs in order to complete a comprehensive analysis of the condition and infrastructure needs of the Storm Sewer System.**
- (h) Update on Key Aspects of Recycle Plus Transition.  
**The Committee accepted the report.**
- (i) Verbal Update Report on Taxi Cabs.  
**The verbal update was heard. No action was taken.**
- (j) Oral Petitions  
**None were presented.**
- (k) Adjournment  
**The meeting was adjourned at 4:38 p.m.**

**The Transportation and Environment Committee Report and the Actions of April 2, 2007, were accepted.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 Approval of actions related to the Sewer Service and Use Charge and Storm Sewer Service.**

#### **Recommendation:**

- (a) Direct staff to send notices, in accordance with Proposition 218 requirements, to San José property owners for receipt no later than May 4, 2007, concerning the following proposed sewer service and use charge and storm sewer service charge rates increases:
  - (1) Sewer Service and Use Charge rate increases for 2007-08 - It is proposed that the residential rate notice provide for an increase of up to 9% for Fiscal Year 2007-08 and that the commercial rate notice provide for proposed increases for Fiscal Year 2007-08 of approximately 3% to 15% for commercial services, depending on the nature of the user's sewage discharge.
  - (2) Storm Sewer Service Charge rate increases for 2007-08 - It is proposed that the residential rate notice would provide for an increase of up to 9% for Fiscal Year 2007-08 and that the commercial rate notice provide for an increase of up to 10% for Fiscal Year 2007-08.
- (b) Direction to the Administration to deviate from the past practice of noticing rate increases for three Fiscal Years and proceed with a one-year rate increase notice for FY 2007-08, resulting from the likelihood that future rate increases will be higher than the above proposed rates in order to adequately address the infrastructure needs of the sewer and storm water systems.

CEQA: Not a Project. (Environmental Services)

**The Staff Policy Alternative was approved, with Staff directed to send notices to San José property owners for receipt no later than May 4, 2007 concerning the following:**

- (1) **Sewer Service and Use Charge rate increases over the next three years – The residential rate notice for an annual increase of up to 9% for Fiscal Year 2007-08, and increases up to 15% in Fiscal Years 2008-09 and 2009-10. The commercial rate notice shall provide for proposed increases for Fiscal Year 2007-08 of approximately 3% to 15% for commercial services, depending on the nature of the user's sewage discharge; and that the notice also provide for possible annual increases in Fiscal Years 2008-09 and 2009-10 of approximately 6% up to 25%, depending on the nature of the user's sewage discharge.**
- (2) **Storm Sewer Rate Charge rate increases over the next three years – The residential rate notice would provide for annual increases of up to 9% for Fiscal Year 2007-08 and up to 30% for Fiscal Years 2008-09 and 2009-10. The commercial rate notice would provide for an increase of up to 10% for Fiscal Year 2007-08 and increases of up to 31% for 2008-09 and 2009-10.**
- (3) **Permit protest by email and fax.**
- (4) **Notice all rate payers by mail this year only and make note in that notice the rates will increase over the next three years.**

**Noes: Campos, Chirco, Williams.**

## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.1 Approval to amend the Strong Neighborhood Initiative Winchester Neighborhood Improvement Plan.

**Recommendation:** Approval of the Strong Neighborhoods Initiative Winchester Neighborhood Improvement Plan Amendment as the renewed City/community vision for the future of the Winchester Area. CEQA: Resolution No. 71045. (Planning, Building and Code Enforcement.)

**Renumbered from 5.2**

**Deferred to 5/1/07, per Administration, under Orders of the Day.**

### • Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9531	Southwest corner of Rue Mirrasou and Mosher Drive	8	Pinn Brothers Construction	51 Lots/ 51 Units	SFD
9894	West side of Paige Street, 260 feet north of Chiechi Avenue	6	Joseph Linh Do	5 Lots/ 4 Units	SFA

### • Notice of City Engineer's Award of Construction Projects None.

### • Open Forum

- (1) Paul Manley presented a formal complaint and request for records regarding a Code Enforcement issue.
- (2) Robert Apgar voiced personal observations.
- (3) William Garbett voiced personal opinions.
- (4) Mark Trout presented religious points of view.

### • Adjournment

The Council of the City of San José adjourned the afternoon session at 4:18 p.m.

## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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### 10.1 Tentative approval of General Plan Consent Calendar items.

No General Plan Public Hearings on Consent Calendar at this time.

## 10. GENERAL PLAN PUBLIC HEARINGS

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(Heard by the City Council at 7:00 p.m.)

### 10.2 Amendment for property located at the northwesterly corner of Los Gatos-Almaden Road and Warwick Road (14861 and 14879 Los Gatos-Almaden Road).

**Recommendation:** Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) on an approximately 0.99-acre site located at the northwesterly corner of Los Gatos-Almaden Road and Warwick Road (14861 and 14879 Los Gatos-Almaden Road) (Owner: Steven and Nancy McVay; Applicant: Cypress Quarters Homes Development Corporation/Contact: Jeff Guinta). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Medium Low Density Residential (8 DU/AC) on 0.99 acres (7-0-0).

GP04-09-01 - District 9

**Staff/Planning Commission recommendation was tentatively approved, with a limit of no more than 5 units.**

**Noes: Constant.**

### 10.3 Amendment for property located on the easterly side of McLaughlin Avenue, approximately 600 feet southerly of Tully Road (2450 to 2492 McLaughlin Avenue).

**Recommendation:** Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Medium Density Residential (8-16 DU/AC) on an approximately 2.34-acre site located on the easterly side of McLaughlin Avenue, approximately 600 feet southerly of Tully Road (2450 to 2492 McLaughlin Avenue) (Owner: Bob Dhillon/Applicant: LPMD Architects/Contact: Anthony Ho). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommended approval of Medium Density Residential (8-16 DU/AC) and Planning Commission recommended denial (3-3-1, Commissioners Campos, Kalra and Platten opposed; Commissioner Dhillon abstained). Because a quorum was not reached, this vote is deemed a negative recommendation pursuant to Title 18, Section 18.08.100.D.

GP06-07-02 - District 7

**Application Denied.**

**Noes: Cortese, Williams.**

## **10. GENERAL PLAN PUBLIC HEARINGS**

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### **10.4 Recommend continuance of all General Plan amendment actions to April 24, 2007.**

**Recommendation:** Recommend continuance of all General Plan amendment actions to April 24, 2007. (Planning, Building and Code Enforcement)

**Continued to 4/24/07.**

## **11. PUBLIC HEARINGS ON CONSENT CALENDAR**

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No Public Hearings on Consent Calendar at this time.

## **11. PUBLIC HEARINGS**

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### **11.2 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit.**

**Recommendation:** Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the construction of an outdoor dining patio and storage building for an existing restaurant (Tomato Thyme) on a 0.40 gross acre site, in the CN Neighborhood Commercial Zoning District, located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (1560 Hamilton Avenue) (John D. Smith, Owner). CEQA: Mitigated Negative Declaration.

CP02-008 - District 6

(Continued from 1/23/07 – Item 11.5 and 3/6/07 – Item 11.2)

**Dropped, per Administration.**

### **11.3 Rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads.**

**Recommendation:** Consideration of an ordinance rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads from IP(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of the existing industrial park buildings (Buildings 025, and 024 and 030) and associated site improvements, the removal of up to 385 trees from the site, and the construction of a new, approximately 204,000 square foot commercial facility (including a retail/commercial use, with a single occupant greater than 100,000 square feet (with a garden center), and other retail/commercial uses) (IBM, Owner). CEQA: Environmental Impact Report (Pending).

PDC06-003 - District 2

**Continued to 5/1/07, per Administration.**



## 11. PUBLIC HEARINGS

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### 11.4 Consideration of a Historic District Designation request.

**Recommendation:** Consideration of a Historic District Designation request to designate as a Historic District the area generally bounded on the north by West San Fernando Street, on the east by Highway 87 & the Santa Clara Valley Transportation Agency Light Rail right-of-way, on the west by Los Gatos creek and on the south by the rear property lines of lots on the north side of Park Avenue, and on the southeast by Sonoma Street and Lakehouse Avenue (Various Owners/City of San José, Applicant). CEQA: Exemption. SNI: Delmas Park. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval while excluding the property at 460 W. San Fernando Street from the proposed Historic District (7-0-0).

HD07-158 - District 3

**Resolution No. 73730 adopted.**

### 11.5 Rezoning the real property located on the north side of Montague Expressway.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the north side of Montague Expressway, approximately 550 feet westerly of N 1<sup>st</sup> Street from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 575 Single-family attached residential units and approximately 2700 square feet of retail commercial uses on a 11.19 gross acre site with the modified Development Standards as listed in the "PDC05-099 Draft Development Standards" dated, April 17, 2007 (Hyundai Merchant Marine, Owner; Legacy Partners Residential, Developer). CEQA: Addendum to the North San José Development Policies Update EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).

PDC05-099 - District 4

**Ordinance No. 28021 passed for publication, as amended, with a minimum of 4,200 square feet of retail required, or up to 5,000 square feet total.**

- **Open Forum**

(1) **Mark Trout presented religious points of view.**

- **Adjournment**

**The Council of the City of San José adjourned at 10:25 p.m. in memory of the thirty three victims of the April 16, 2007 shooting massacre at Virginia Tech University.**